



Convention on the Rights of the Child

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Summary record of the 2374th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 May 2019, at 3 p.m.

Chair: Mr. Pedernera Reyna

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The meeting was called to order at 3:05 p.m.

Consideration of reports of States parties (*continued*)

Initial report of Tonga (continued) (CRC/C/TON/1; CRC/C/TON/Q/1 and CRC/C/TON/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of Tonga took places at the Committee table.*
2. **Mr. Fisi'iahi** (Tonga) said that the Government attached great importance to ensuring that parents and guardians fulfilled their responsibilities. It worked closely with the Roman Catholic Church to provide parenting classes for young couples. Weekly official checks were conducted to ensure that any child under the guardianship of extended family was receiving the best possible care. The law allowed for paternity leave when a mother was unable to care for a newborn baby or other children.
3. Even on the remote islands, education programmes had given the population a high degree of environmental awareness. Children were taught not to burn rubbish or engage in other practices that contributed to climate change. The Government would never allow the dumping of other countries' nuclear waste in Tonga.
4. There were no immediate plans to legalize traditional healing practices, as the effectiveness of such practices was unproven. Moreover, their legalization might lead to large numbers of doctors leaving the health-care profession.
5. **Ms. Moeaki** (Tonga) said that the Government was striving to extend and improve school attendance. Compulsory education, which had previously finished at the age of 16, now ran until the age of 18. No mapping had been carried out to identify children who were not attending school, but the Government was working closely with parent-teacher associations to locate such children and determine why they were not in school. It was also offering low-income students funding to help them complete secondary school and attend technical and vocational institutions. She wished to clarify that the figures on school-age children not registered for primary and secondary education were somewhat misleading, as they included children who might have been moving to a different school at the time the census data were collected or might have emigrated in the period between censuses.
6. Human rights education had been mainstreamed into the school curriculum, but schools did not teach a specific human rights course or module. Most of the country's 96 early childhood education centres were run by religious or other non-governmental organizations (NGOs), but the Government had recently opened two new centres and planned to expand its network. There were only three day-care facilities in Tonga, which were in high demand, as the number of mothers who worked outside the home was increasing. The Government had endorsed three months' maternity leave for working mothers to ensure that they could breastfeed their children. Although the country only had one school designated for inclusive education, which was located on the main island, there were plans to extend such education to other islands. The Government had set minimum qualifications for teachers working in early childhood and inclusive education, and had introduced a degree-level training programme in those areas.
7. Fencing had been installed and other measures had been taken to ensure children's safety in the country's only government-owned park. There were also community-owned parks on the outer islands. As for recreational activities other than sports, children were able to engage in cultural activities, such as dancing, singing and drama.
8. **Ms. Mafi** (Tonga) said that informal, customary adoption was widespread in Tonga, with few families choosing to register the adoption with a court. The Government was examining the feasibility of ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. It was uncommon for children to be born in prison, and the Government took steps to prevent the stigmatization of those who were. Such children were registered through the normal process, but the place of birth was listed as the village nearest to the prison, not the prison itself. As of February 2019, there had been no children residing with their mothers in prison.

9. **Ms. 'Esau** (Tonga) said that the Government was committed to promoting healthy habits and preventing non-communicable diseases among children. In 2005, to combat rising obesity levels in Tonga, a school food policy had been developed and standards had been implemented for the food sold and consumed in schools. The Government had also taken measures to encourage children to eat breakfast. There were a range of school health programmes that encouraged children to eat healthy, balanced meals, limit their sugar intake and take care of their teeth.

10. The Government was striving to improve access to primary health care on the outer islands. The Ministry of Health was working to train and deploy health-care professionals to those islands. For example, a group of midwives had recently received training under a postgraduate programme supported by the non-governmental organization Rocketship Pacific. There were also capacity-building programmes for health professionals already working in remote communities on the outer islands.

11. **Mr. Lolohea** (Tonga) said that in 2018 the Government had conducted a national disability survey based on models proposed by the Washington Group on Disability Statistics and the United Nations Children's Fund, but the results of that survey were not yet available. The data would be disaggregated into various categories, including age and gender. A multiple indicator cluster survey planned for October 2019 would help to fill gaps in data on women and children.

12. Although it had not been disability-specific, the 2016 Population and Housing Census had provided some relevant figures: 3 per cent of children had one or more disability and 64 per cent of the approximately 1,500 children with disabilities attended school. The census had identified six types of disabilities: visual impairments, hearing impairments, mobility-related disabilities, memory-related disabilities, communication-related disabilities and self-care disabilities.

13. **Mr. Fisi'iahi** (Tonga) said that Vaiola, the country's main hospital, had only a few beds for the treatment of mental health patients. The majority of persons with mental health conditions received care at home. Home visits were conducted by health-care workers and staff members of NGOs funded by the Ministry of Internal Affairs. Statistics relating to persons receiving mental health care would be provided in writing in due course.

14. **Ms. Mafi** (Tonga) said that the Employment Relations Bill 2013 referred to in the country's initial report ([CRC/C/TON/1](#), para. 173) had been revised and renamed "Employment Relations Bill 2019". It had been put forward for consideration in the upcoming session of the Legislative Assembly. Under the proposed legislation, the minimum age for employment in non-hazardous occupations would be 15 years of age. The occupations deemed hazardous had not been specified in the bill but would be identified in subsequent regulations. One provision of the bill listed prohibited forms of discrimination in employment. Consultations had recently been held on matters relating to the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182).

15. The penalties for indecent assault on or carnal knowledge of children were harsh and included life imprisonment. The abduction of girls, but not of boys, had been criminalized under the Criminal Offences Act. The Government was aware that the Act was discriminatory in that regard. Trafficking in children had been criminalized in the Counter-terrorism and Transnational Organized Crime Act.

16. Criminal cases involving children below the age of 16 were heard on separate days and in settings less formal than those of other criminal justice proceedings. Cases involving such children were often conducted in closed court, with none but the magistrate, the child, the parents and counsel present. In the absence of a formal juvenile justice system, a checklist of legal safeguards had been developed to guide magistrates hearing cases involving children. It ensured that children who appeared in court either as alleged offenders or as victims were provided with the necessary protections. There were no specific rehabilitation and reintegration programmes for children in Tonga. In accordance with the Criminal Offences Act, however, the courts could order first-time offenders to perform community service. It was not yet clear whether such orders served as a deterrent or encouraged recidivism.

17. **Mr. Rodríguez Reyes** asked whether the State party had any plans to ratify the ILO Maternity Protection Convention, 2000 (No. 183), and thus assume an obligation to guarantee mothers 14 weeks of maternity leave rather than only 12. He would welcome confirmation that the State party had signed the International Code of Marketing of Breast-milk Substitutes. In that connection, he wondered how many of its hospitals had been certified “baby-friendly” as part of the baby-friendly hospital initiative. Although it was not necessarily a bad idea for children with mental disabilities to be treated at home, he wondered whether the home care mentioned by the delegation was the result of public policy on home-based care and whether government funds were budgeted for such care.

18. **Ms. Aldoseri** (Country Rapporteur) said that she wished to know what efforts the State party was making to bring down its high rates of teen pregnancy; whether the school curriculum covered sexual and reproductive health education; what sexual and reproductive health services, including confidential services, were available to minors; and whether a girl who was pregnant as a result of rape could have an abortion. She would also like to know whether the school attended by children with disabilities was a mainstream or special-education school.

19. **Mr. Nelson** (Country Rapporteur) said that he would welcome answers to his earlier questions about the high infant mortality rate in the State party and the low vaccination rate, especially in the outer islands. Information on the prevalence of HIV/AIDS among children would also be appreciated. He had also wished to know whether the State party intended to regulate the activities of its traditional healers, ensuring that they were held accountable for any harm they caused. In addition, he wondered what measures were being taken to combat smoking and drinking by teenagers and what assistance, if any, was offered to the families of children who worked selling peanuts and other snacks during school hours and at night.

20. He would be grateful if the delegation would clarify whether the abduction of boys and the sale of children were criminalized and whether the State party intended to ratify the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, which it had already signed. With regard to juvenile justice, he wondered what measures had been taken to avoid having minors detained together with adults, whether the diversion programme for minors in conflict with the law was in place, whether such minors were entitled to legal aid and what training judges, prosecutors and police officers received to help them conduct legal proceedings involving minors. Lastly, he would welcome an indication of whether any special procedures were used to protect children who were required to give evidence.

21. **Ms. Aho Assouma** said that the Ministry of Health should, in her view, conduct a review of the activities of the State party’s traditional healers and ensure that they were properly regulated. She wondered what steps the State party had taken to combat child obesity, apart from asking school cafeterias not to serve sugary drinks. She also wished to know whether there were programmes to help children who were at risk of suicide. In addition, she would like information on child vaccination rates in Tonga, how the authorities ensured that children on the outer islands were vaccinated and what measures had been taken to help children and young people who were addicted to psychotropic drugs. Lastly, she wondered how accessible reproductive health services were to young people living on the outer islands and in rural areas.

22. **The Chair** said that the Committee would welcome a comment from the delegation on the extent to which children who did not have families were institutionalized as a protection measure. The delegation should also indicate whether a bill on adoption had been drafted and, if so, what its status was. The Committee would also like to know when the State party planned to ratify the Convention on the Rights of Persons with Disabilities and what steps were being taken to prevent children from dropping out of school.

23. **Ms. Skelton** said that it was important to consider ways of avoiding the imprisonment of mothers with young children. The State party might wish to follow the example of Fiji, where sentencing guidelines for women with children were informed by the best interests of their children.

24. **Mr. Fisi’iahi** (Tonga) said that children receiving mental health care were usually kept at home because the country’s hospitals did not have enough space for them;

moreover, mental health wards could also be dangerous, as adults hospitalized for mental health treatment were usually drug addicts, who sometimes turned violent. No move had been made to regulate traditional healers, who generally practised in remote areas, such as some of the scattered islands of the island groups Ha'apai and Vava'u, where there were no doctors or health facilities. Steps would however be taken to encourage the Government to begin regulating the activities of traditional healers.

25. **Ms. Mafi** (Tonga) said that adoption legislation would be drafted after consultations on the subject had been completed. The law currently did not provide specific penalties for the sale of children. On the question of abduction, as she had said, the legislation was discriminatory, protecting only girls and not boys. As to the optional protocols to the Convention, her Government's priority had been the preparation of the country's report on implementation of the Convention; it would turn its attention to ratification of the optional protocols once the delegation had returned to Tonga.

26. The delegation had no data on children held in pretrial detention or recently arrested. Although moves were under way to introduce electronic data collection, the current system remained largely manual and such figures could not be extracted. The legislation provided for child and adult offenders to be held separately where space and resources permitted, but the State's resources were too limited for that to be possible. The two children currently in detention were being held with adults.

27. Free legal representation could be provided to children by the Family Protection Legal Aid Centre in cases brought under the Family Protection Act, although in several recent cases the Chief Justice had ordered counsel to appear on behalf of a child when due process had manifestly been violated in the early stages of prosecution. On the question of dealing with children in judicial proceedings, members of the judiciary were receiving training in the areas of gender and human rights, with support from partners in the Pacific Judicial Strengthening Initiative and the Regional Rights Resource Team; police were receiving training in the same areas from a local NGO. However, it was not clear in either case whether the training specifically covered children in the criminal justice system. Nevertheless, the country's membership of the Pacific Islands Law Officers' Network meant that the general principles of dealing with evidence from child victims and witnesses were being incorporated into the procedures of the Attorney General's Office and police prosecutors. As yet, in practice the only special procedure in place was to permit children to give evidence to a judicial official without the alleged perpetrator being present. In addition, the Evidence Act provided for evidence to be given on camera.

28. **Mr. Fisi'iahi** (Tonga) said that children were encouraged, in part by means of messages in radio programmes, to come forward to report abuse. Those who did were referred to the Women and Children's Crisis Centre, which provided a secure setting for confidential interviews. The system had yielded results, leading to arrest of the parent or parents involved. Statistics on children of parents with HIV/AIDS were lacking, as no cases had been reported in recent years. However, where parents were diagnosed, the children were also tested and appropriate care was provided.

29. **Mr. Lolohea** (Tonga) said that infant and under-5 mortality rates had improved considerably over the past 10 years, but it was not clear whether that was a result of better data collection or improvements in health facilities. Adult mortality rates, on the other hand, had risen as a result of non-communicable diseases.

30. **Ms. 'Esau** (Tonga) said that reproductive health education was part of the curriculum in secondary schools. Students who became pregnant could seek confidential counselling and services from the Tonga Family Health Association, which was separate from the Ministry of Health. No provision was made for abortion and no facilities were available.

31. Smoking and drinking were prohibited in schools. The Family Health Association and the Tonga Health Promotion Foundation worked with schools through outreach activities to help students understand the health risks associated with tobacco and alcohol use. Each school had its own protocols to deal with students who drank or smoked, including disciplinary committees that worked with parents or guardians to help change the children's behaviour. Efforts to tackle child obesity centred on awareness-raising among

parents and children in order to dispel the idea that soft drinks, sweets and junk food were a treat. Schools were encouraged to support those efforts and help children to understand that bottled water was better than sugary drinks, for example, and more generally to understand the importance of healthy eating and its long-term impact on their physical health.

32. There were no specific measures in place to support families whose children went out selling peanuts and snacks. In such cases, it was generally the truancy officer who contacted the school or the parents to determine why the children were absent and to encourage the family to ensure that the children returned to school.

33. **Mr. Jaffé** asked how children were encouraged to express their views on, for example, the activities they would like to see in schools, and what forms of petition to the various authorities were available to them. He wondered whether the Government made efforts to promote children's participation in general.

34. **Mr. Gudbrandsson** said that, in light of the important role played by the extended family in caring for children whose biological parents were unable to do so, he would be interested to hear more about children's role in decision-making at gatherings of the extended family. Was there any professional supervision of the process and did children have formal status that ensured that their voices would be heard?

35. **The Chair** asked whether abortion services were unavailable because abortion itself was criminalized or because resources were too limited. He also asked what contraceptive methods were available to young people.

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.

36. **Mr. Rodríguez Reyes**, noting that the delegation had indicated that persons with mental health problems tended to be cared for at home because the State lacked the financial resources to treat them in hospital, said that such home-based care was preferable to institutionalization, which should be a last resort.

37. **Mr. Fisi'iahi** (Tonga) said that until relatively recently younger children had had no say in family decisions; the grandparents' or parents' decisions were final. Exposure to other cultures, improved education and the fact that parents now tended to be younger, had changed the context, however. Around 50 per cent of the country's population lived at some point in New Zealand or Australia, where children were able to exercise their rights more fully and play a part in decision-making. Expectations had therefore changed, and those who returned to Tonga understood the importance of allowing children to express their views.

38. **Ms. 'Esau** (Tonga) said that children's participation was recognized at several levels and children had the opportunity to voice their opinions and contribute to decision-making as part of their learning experience in the family, the school, the community, the village and, in particular, at church. Sunday school was organized on similar lines to regular school, with age-appropriate programmes teaching not only religion but also subjects with wider social significance. In addition, the Youth Parliament gave secondary school students insight into political agendas and parliamentary and electoral processes, and an opportunity to express their views on current affairs. As part of a youth leadership programme funded by the European Union and run in collaboration with Tongan civil society, primary school children, including some from the outer islands who were flown in specially, had been given the opportunity to visit government offices and higher education institutions with a view to expanding their range of potential careers.

39. **Ms. Mafi** (Tonga) said that abortion was illegal in Tonga and was penalized under the Criminal Offences Act. However, it was the policy of the Ministry of Health to permit abortion in extreme circumstances, for instance if the life of a pregnant teenager was at risk. The Ministry's policy was not reflected in the current legislation.

40. **Ms. Moeaki** (Tonga) said that a government-run primary school had a programme for inclusive education and a mainstream programme. Appropriately qualified teachers were employed in the inclusive education programme and the authorities endeavoured to supply the requisite devices to cater for children with disabilities. Although there was a separate curriculum for the programme, it was aligned with mainstream programmes. All

children at the school were encouraged to interact during the lunchtime break in order to discourage discrimination against children with disabilities. The Ministry of Health worked closely with the inclusive education unit in screening children with disabilities. Children with severe mental disabilities were sent to the school at the 'Ofa, Tui, 'Amanaki Centre (OTA Centre).

41. With regard to school dropout, the number of years in some primary schools had been increased from six to eight, so that pupils were not required to pass the entrance examination for secondary school at such an early age. Children who failed that examination had frequently tended to drop out. Alternative pathways had been introduced in secondary schools so that students could choose either to follow an academic pathway or a technical, vocational or trade pathway. They were also encouraged, with a view to preventing dropout, to participate in extracurricular programmes such as sports. The curriculum had been rendered more outcome-based and less dependent on examinations as an assessment method.

42. **Ms. 'Esau** (Tonga) said that the alternative pathways programme had been introduced because most boys had dropped out halfway through secondary school. The Ministry of Education and Training had developed the alternative option in partnership with 10 secondary schools so that students could switch from the mainstream programme to a technical programme, which was the introductory phase of a programme offered by the Tonga Institute of Science and Technology. Boys who opted for the programme were able to proceed to a technical school in order to obtain a certificate or diploma. The alternative pathway had successfully reduced the dropout trend among secondary-level schoolboys. The Tongan Government was grateful for the support received for those initiatives from the Government of New Zealand. Financial sustainability would pose a challenge for the Ministry of Education and Training when it was required to provide full funding for the programmes. Fortunately, the Government of New Zealand was willing to continue providing support while the Ministry gradually built its capacity to take over.

43. **Ms. Mafi** (Tonga) said that the delay in ratifying the Convention on the Rights of Persons with Disabilities was due to the need to await the outcome of a national survey on the Convention. The results were currently being studied.

44. **Ms. Aho Assouma** said she wished to know whether there were any arrangements for monitoring the condition of young patients with mental disabilities who were cared for at home. She would also appreciate information concerning the care provided to young patients who remained in institutions. They seemed, for instance, to be accommodated alongside adults. She wished to know whether the Ministry of Health organized awareness-raising campaigns concerning the importance of vaccination throughout the State party. She was particularly interested in hearing how vaccinations were made available in remote islands and how children who had not been vaccinated were traced and given access to vaccinations. The Committee would appreciate further information concerning programmes to raise awareness of and address the problem of drug addiction in the State party.

45. **Mr. Nelson** said that there seemed to be a difference between the Ministry of Health statistics on infant and under-5 mortality rate, which demonstrated an improvement, and the information contained in paragraph 369 of the State party's report. The Committee would appreciate accurate statistics.

46. **Mr. Fisi'iahi** (Tonga) said that regular care was provided for children with mental disabilities who lived at home. Trained doctors and nurses looked after children who remained in hospital and arranged for their participation in diverse community activities as part of the rehabilitation process. Vaccinations were continuously provided throughout Tonga. The capacity of the Ministry of Health had been increased on the main islands, and new hospitals had been built to ensure that medical treatment, including vaccination, were available to the population on all islands. The Ministry of Internal Affairs organized joint awareness-raising campaigns with governmental agencies and NGOs to prevent the use of drugs. There were currently no accurate statistics concerning the number of children using drugs.

47. **Ms. 'Esau** (Tonga) said that details concerning the infant and under-5 mortality rate would be provided in due course.

48. **Ms. Aho Assouma** said that she would be interested in hearing about early screening services for children with disabilities and the specific services provided.

49. **Mr. Nelson** said that the Committee was encouraged to hear about the State party's commitment to expanding the range of programmes and initiatives to meet current needs in the areas of health and education. It also commended the action being taken to promote legislative and other reforms. The Committee looked forward to hearing about further progress and about the action taken on its concluding observations.

50. **Mr. Fisi'aihi** (Tonga), expressing regret that his country's initial report had been long overdue, said that he wished to assure the Committee that every effort would be made to promote children's rights in Tonga and that a second report would be submitted in due time.

51. **Ms. 'Esau** (Tonga) said that the delegation would submit some written responses before departing for Tonga and would provide further responses on returning home. She, too, wished to assure the Committee that Tonga would step up its efforts to ensure a safe and healthy environment for children. All parties would collaborate to ensure that high priority was accorded to the best interests of the child.

The meeting rose at 5.25 p.m.